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# HOUSE BILL No. 1290

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-2.5-4-5; IC 6-2.5-5-16.5.

**Synopsis:** Home energy sales tax exemption. Provides a sales tax exemption for sales of home energy to a person who acquires the energy through a home energy assistance program administered by the division of family and children.

**Effective:** Upon passage; July 1, 2005.

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## Yount, Klinker, Murphy, Day

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January 11, 2005, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1290

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-2.5-4-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) As used in this  
3 section, a "power subsidiary" means a corporation which is owned or  
4 controlled by one (1) or more public utilities that furnish or sell  
5 electrical energy, natural or artificial gas, water, steam, or steam heat  
6 and which produces power exclusively for the use of those public  
7 utilities.  
8 (b) A power subsidiary or a person engaged as a public utility is a  
9 retail merchant making a retail transaction when the subsidiary or  
10 person furnishes or sells electrical energy, natural or artificial gas,  
11 water, steam, or steam heating service to a person for commercial or  
12 domestic consumption.  
13 (c) Notwithstanding subsection (b), a power subsidiary or a person  
14 engaged as a public utility is not a retail merchant making a retail  
15 transaction in any of the following transactions:  
16 (1) The power subsidiary or person provides, installs, constructs,  
17 services, or removes tangible personal property which is used in

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connection with the furnishing of the services or commodities listed in subsection (b).

(2) The power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter.

(3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.

(4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:

(A) The services or commodities are sold to a business that after June 30, 2004:

- (i) relocates all or part of its operations to a facility; or
- (ii) expands all or part of its operations in a facility;

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, an economic development area established under IC 36-7-14.5-12.5, or a military base recovery site designated under IC 6-3.1-11.5.

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

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(5) The power subsidiary or person sells services or commodities that:

(A) are referred to in subsection (b); and

(B) qualify as home energy (as defined in IC 12-14-11-2); to a person who acquires the services or commodities through a program administered by the division of family and children under IC 12-14-11.

SECTION 2. IC 6-2.5-5-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16.5. (a) As used in this section, "home energy" has the meaning set forth in IC 12-14-11-2.

(b) Transactions involving home energy are exempt from the state gross retail tax if the person acquiring the home energy acquires it through a program administered by the division of family and children under IC 12-14-11.

SECTION 3. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "home energy" has the meaning set forth in IC 12-14-11-2.

(b) IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act, apply to transactions involving home energy that occur after June 30, 2005.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of state revenue established by IC 6-8.1-2-1.

(b) The department may adopt rules under IC 4-22-2 to implement IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act.

(c) The department shall adopt any rules under this SECTION to implement IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than June 1, 2005. A rule adopted under this SECTION expires on the earlier of:

(1) the date a rule is adopted by the department under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act; or

(2) July 1, 2006.

(d) This SECTION expires July 1, 2006.

SECTION 5. An emergency is declared for this act.

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